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CLERK US DISTRICT COURT  
DISTRICT OF ARIZONA

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF ARIZONA

JAS(DTF)

10 United States America,

11 Plaintiff,

12 vs.

13 MICHAEL FEINBERG,  
14 BETSY FEINBERG,

15 Defendants.  
16  
17  
18  
19  
20  
21  
22

CR18-1786TUC

INDICTMENT

VICTIM CASE

Violations:

18 U.S.C. § 1349 (Conspiracy to Commit  
Wire Fraud)  
Count 1

18 U.S.C. § 1343 (Wire Fraud)  
Counts 2 and 3

18 U.S.C. § 371 (Conspiracy to Commit  
Securities Fraud)  
Count 4

Title 15, United States Code, Sections 78j(b)  
and 78ff, and Title 17, Code of Federal  
Regulations, Section 240.10b-5 (Securities  
Fraud)  
Counts 5 - 16

18 U.S.C. §§ 981 and 982  
Forfeiture Allegation

23 GRAND JURY CHARGES:

24 Scheme to Defraud  
25 And To Sell Unregistered Securities

26 At all relevant times in this indictment, the following facts are alleged:

- 27 1. During approximately 1997 and continuing through March 7, 2014, in the District  
28 of Arizona and elsewhere, the defendants, MICHAEL FEINBERG and BETSY

1       **FEINBERG**, willfully sold unregistered securities, and knowingly and with the  
2       intent to defraud, engaged in a scheme to defraud various investors. The defendants  
3       also participated in the scheme to defraud such investors based on material false  
4       representations and the intentional concealment of material facts. The defendants  
5       knew that various statements made as part of their scheme to defraud were false.

6       2. **Michael Feinberg** and **Betsy Feinberg** while living in New York, owned and  
7       operated a company called Catharon Productions, Inc. (According to a Catharon  
8       Software Corporation (Catharon) offering memorandum dated March 25, 2002,  
9       Catharon is the successor in interest to Catharon Productions.) **Betsy Feinberg**  
10      was the Chief Executive Officer of Catharon Productions, and **Michael Feinberg**  
11      was its President and Treasurer. **Michael Feinberg** and **Betsy Feinberg** were the  
12      majority shareholders of Catharon Productions and Catharon.

13     3. Catharon was organized as a Delaware corporation on March 8, 2002. From March  
14     25, 2002 through at least June 2014, **Betsy Feinberg** was a Director and the Chief  
15     Executive Officer of Catharon. **Michael Feinberg** was a Director and the President  
16     and Treasurer of Catharon. From 2002 to mid-2013, **Michael Feinberg** and **Betsy**  
17     **Feinberg** operated Catharon from Sedona, Arizona, where they lived. In 2013,  
18     **Michael Feinberg** and **Betsy Feinberg's** home in Sedona was foreclosed upon.  
19     From mid-2013 to at least February 2015, **Michael Feinberg** and **Betsy Feinberg**  
20     operated Catharon from Tucson, Arizona.

21     4. **Michael Feinberg** and **Betsy Feinberg's** fraud arose from their sale of unregistered  
22     securities, Catharon stock. At no time did **Michael Feinberg** and **Betsy Feinberg**  
23     register with Securities and Exchange Commission any securities relating to  
24     Catharon.

25     5. From December 2002 to March 2014, **Michael Feinberg** and **Betsy Feinberg**  
26     raised \$5,001,559.00 by selling unregistered shares of stock in Catharon to investors  
27     while **Michael Feinberg** and **Betsy Feinberg** resided in Sedona (2002-2013) and  
28     Tucson (2013-2014). **Michael Feinberg** and **Betsy Feinberg** represented that they

1 had created and Catharon owned a patented computer language technology they first  
 2 called "TenCORE Net" and then later called "VADelta." **Michael Feinberg** and  
 3 **Betsy Feinberg** falsely claimed that Catharon's technology "represents the first  
 4 major breakthrough in computer languages in thirty years," "VADelta has several  
 5 major advantages over all other languages," and "There is no competition because  
 6 all existing development environments lack key elements...." **Michael Feinberg**  
 7 and **Betsy Feinberg** represented that their technology would enable Catharon to  
 8 compete with Microsoft.

9 *Catharon Productions and Catharon:*

- 10 6. **Michael Feinberg** and **Betsy Feinberg** used Catharon Productions to make private  
 11 placement offerings to investors in at least 1997, 1999, and 2000. In the 1999 and  
 12 2000 private placement offerings for Catharon Productions, **Michael Feinberg** and  
 13 **Betsy Feinberg** represented to investors that:

14 Catharon Productions had created a software system called TenCORE Net  
 15 that, 'given adequate financial resources and successful marketing, will allow  
 16 it to compete in the market with microcomputer operating systems  
 17 manufacturers, such as Microsoft and Sun Microcomputers;' 'TenCORE Net  
 18 is currently performing up to its expectations;' and 'The Company's ability  
 19 to realize sufficient cash flow to cover its overhead for the next 12 months is  
 dependent primarily upon the extent to which TenCORE Net is accepted by  
 Internet users as an alternative to established programming languages.'

- 20 7. After forming Catharon in 2002, **Michael Feinberg** and **Betsy Feinberg** induced  
 21 the victims to invest by repeatedly and falsely representing from at least 2002  
 22 through 2013 that (i) Catharon would launch its technology within months of the  
 23 investors' investment, (ii) Catharon would generate \$2 billion in revenue within 3  
 24 years, and (iii) investors would receive significant returns on their investments, i.e.,  
 25 between 400% and 2,268%. At the time **Michael Feinberg** and **Betsy Feinberg**  
 26 made these material false representations they knew such representations were false  
 27 because Catharon never had the capability of launching its technology nor the ability  
 28 to generate these significant revenues or returns on investments. **Michael Feinberg**

1 and **Betsy Feinberg** never launched Catharon's purported technology.  
2 Additionally, **Michael Feinberg** and **Betsy Feinberg** never had any reasonable  
3 factual basis for the projected launch dates, the projected \$2 billion revenue figure  
4 and the enormous investment returns, or their representations that Catharon would  
5 compete with Microsoft and similar companies.

6 8. **Michael Feinberg** and **Betsy Feinberg** made similar materially false  
7 representations to investors that the technology would enable their company to  
8 compete with Microsoft and that it was "currently performing up to its  
9 expectations;" and the implied misrepresentation that, to generate sufficient cash  
10 flow to cover its overhead, their company would release its technology within 12  
11 months in each of their subsequent private placement offering memoranda for  
12 Catharon in 2002, 2003, 2008, 2010 and 2013.

13 9. Additionally, Michael Feinberg and Betsy Feinberg failed to disclose to investors  
14 in each of the above offering memoranda from 2003 to 2013 that the company had  
15 never been able to previously meet any of its projected launch deadlines.

16 10. **Michael Feinberg** and **Betsy Feinberg** misused the investors' monies, which were  
17 deposited into Catharon's bank account, to pay their own personal living expenses  
18 and support their own lavish lifestyle. **Michael Feinberg** and **Betsy Feinberg** paid  
19 themselves salary of \$374,990 from 2009 to 2014. In addition to salary, **Michael**  
20 **Feinberg** and **Betsy Feinberg** transferred at least \$858,185.99 of investor money to  
21 themselves.

22 2002 Offering:

23 11. In Catharon's 2002 offering, **Michael Feinberg** and **Betsy Feinberg** defrauded six  
24 investors of \$160,000. The offering materials falsely represented to investors that  
25 Catharon was seeking a "final round" of \$6 million in investments to assist the  
26 company in bringing TenCORE Net to market "within ten months." **Michael**  
27 **Feinberg** and **Betsy Feinberg** stated in subsequent offering years that the respective  
28 year's offering was the "final round" of funding:

1 May 14, 2003 Business Plan: "We are seeking a final round of \$3 million to  
2 assist us in bringing our consumer-licensed product to the general market  
3 within six months of receipt of funding."

4 December 1, 2008 Business Plan: "[W]e are seeking a final round of  
5 \$750,000 to assist us in bringing our consumer-licensed product to the  
6 general market within five months of receipt of funding."

7 April 5, 2013 Business Plan: "[W]e are seeking a final round of \$500,000 to  
8 assist us in bringing our consumer-licensed product to the general market  
9 within eight months of receipt of funding."

10 12. The 2002 offering materials projected a ten-month launch date for TenCORE Net.  
11 However, **Michael Feinberg** and **Betsy Feinberg** failed to disclose that they had  
12 previously represented to investors that they would launch the software in 1999,  
13 2000 or 2001, but that they had failed to meet those projected launch dates.

14 13. The 2002 offering materials also created the false impression that a launch date for  
15 TenCORE Net would happen soon by falsely representing to investors, "The  
16 software product, TenCORE Net, is finished, not in R&D," "TenCORE Net is  
17 currently performing up to its expectations," and "We are seeking funding to cover  
18 marketing and to complete documentation and tutorials."

19 14. **Michael Feinberg** and **Betsy Feinberg** also falsely represented to investors in the  
20 2002 offering (and each subsequent offering) that Catharon's technology would  
21 enable it to compete with Microsoft. Having failed since at least 1999 to launch  
22 their software and having no experience running any company similar to Microsoft,  
23 **Michael Feinberg** and **Betsy Feinberg** had no reasonable factual basis for this  
24 representation.

25 2003 Offering:

26 15. **Michael Feinberg** and **Betsy Feinberg** defrauded 81 investors of \$2,346,809.00  
27 with Catharon's 2003 offering. In the 2003 offering materials, **Michael Feinberg**  
28 and **Betsy Feinberg** represented to investors:

1 We are seeking a final round of \$3 million to assist us in bringing our  
2 consumer-licensed product to the general market within six months of receipt  
3 of funding;

4 The software product, TenCORE Net, is finished, not in R&D;

5 TenCORE Net is currently performing up to its expectations...; and

6 TenCORE Net would enable Catharon to compete with Microsoft.

- 7 16. For the same reasons these representations were false in the 2002 offering, **Michael**  
8 **Feinberg** and **Betsy Feinberg**'s representations were also false in the 2003 offering.  
9 With respect to the projected six-month launch date for TenCORE Net, **Michael**  
10 **Feinberg** and **Betsy Feinberg** omitted to disclose their failures to meet previously  
11 projected launch dates going back to at least 1999. Those undisclosed failures to  
12 launch TenCORE Net seriously undermined **Michael Feinberg** and **Betsy**  
13 **Feinberg**'s representation that they would launch the software within six months of  
14 funding of the 2003 offering.

- 15 17. In the 2003 offering materials, **Michael Feinberg** and **Betsy Feinberg** also falsely  
16 represented to investors that Catharon expected to provide a 1,572% return to  
17 investors within 5 years. **Michael Feinberg** and **Betsy Feinberg** had no factual  
18 basis to project a 1,572% return for investors given the absence of any historical  
19 revenue or profit figures for Catharon.

20 2008 Offering:

- 21 18. **Michael Feinberg** and **Betsy Feinberg** defrauded 24 investors of \$1,281,250.00  
22 with Catharon's 2008 offering. Similar to what they misrepresented in the 2002 and  
23 2003 offerings, in the 2008 offering **Michael Feinberg** and **Betsy Feinberg** falsely  
24 represented to investors:

25 We are seeking a final round of \$750,000 to assist us in bringing our  
26 consumer-licensed product to the general market within five months of  
27 receipt of funding;

28 The software product, VADelta, is finished, not in R&D;

VADelta is currently performing up to its expectations...; and

VADelta would enable Catharon to compete with Microsoft.

19. Again, **Michael Feinberg** and **Betsy Feinberg** omitted and failed to disclose their repeated failures since at least August 1999 to launch the technology.

20. In the 2008 offering materials, **Michael Feinberg** and **Betsy Feinberg** also lied to investors stating that Catharon would provide a 2,268% return to investors within 3 years. This projection was even more wild and baseless than the previous projection of a 1,572% return for investors.

2010 Offering:

21. **Michael Feinberg** and **Betsy Feinberg** defrauded 63 investors of \$1,108,500.00 with Catharon's 2010 offering. Similar to what they misrepresented in the 2002, 2003 and 2008 offerings, in the 2010 offering **Michael Feinberg** and **Betsy Feinberg** falsely represented to investors:

VADelta is currently performing up to its expectations...;

Not only are we less than a year from revenue, we are less than a year from profitability and the payment of dividends;

[W]e do expect to release and start the dividends flowing in 2011;

We're so excited! After all these months of preparation, we are scheduled to launch VADelta on December 16 of this year; and

VADelta would enable Catharon to compete with Microsoft.

22. Again, **Michael Feinberg** and **Betsy Feinberg** omitted and failed to disclose their repeated failures since at least August 1999 to launch the technology.

2013 Offering:

23. **Michael Feinberg** and **Betsy Feinberg** defrauded 7 investors of \$105,000 with Catharon's 2013 offering. Similar to what they misrepresented in the 2002, 2003, 2008, and 2010 offerings, in the 2013 offering **Michael Feinberg** and **Betsy Feinberg** falsely represented to investors:



1 We are seeking a final round of \$500,000 to assist us in bringing our  
2 consumer-licensed product to the general market within eight months of  
3 receipt of funding;

4 VADelta is currently performing up to its expectations...;

5 VADelta would enable Catharon to compete with Microsoft; and

6 A projected return on investment of 668%.

- 7 24. Again, **Michael Feinberg** and **Betsy Feinberg** omitted and failed to disclose their  
8 repeated failures since at least August 1999 to launch the technology.

9 Employees:

- 10 25. Employee W.C. described Catharon's software as "a heap of junk." He said it was  
11 "not fit for purpose" and had "no basis for functionality as a usable program." W.C.  
12 criticized **Michael Feinberg** and **Betsy Feinberg** "for making promises to investors  
13 that they would never be able to keep." W.C. further stated that once **Michael**  
14 **Feinberg** and **Betsy Feinberg** "got money from an investor, they'd keep trying to  
15 wheedle more money out of them," and they boasted at staff meetings about doing  
16 so.

- 17 26. Employee R.O. was a software tester from October 2011 to November 2012. R.O.  
18 wrote programs in VADelta to test the software's lower-level features. He said the  
19 tests were "at a simplified level," and "A lot worked but a lot did not work." During  
20 R.O.'s interview, the Securities Division informed him about the statements in  
21 Catharon's offering materials dating back to 2002 that represented the software was  
22 "finished, not in R & D" (research and development). R.O. said that throughout his  
23 employment in 2011 and 2012 VADelta was still in development.

24 Patents:

- 25 27. Further, in making an investment offering in April 2013, **Michael Feinberg** and  
26 **Betsy Feinberg** continued to falsely represent that Catharon held two patents  
27 concerning VADelta, although in January and February 2013 they had assigned  
28 Catharon's ownership of the patents to a third party without disclosing that



1 assignment to investors.

2 28. The purported value and potential of Catharon's patented VADelta technology were  
3 central to Catharon's unregistered stock offering. According to the 2013 Offering  
4 Memorandum and Business Plan, Catharon's primary revenue source would come  
5 from "the low cost, high volume licensing of VADelta...." The 2013 Business Plan  
6 projected that Catharon's licensing of VADelta would generate \$2 billion in revenue  
7 within 3 years.

8 29. In the 2013 Offering Memorandum **Michael Feinberg** and Betsy Feinberg  
9 continued to lie to and mislead investors stating that Catharon expects "intense  
10 competition from Microsoft, Sun Microsystems and others." The 2013 Business  
11 Plan, also, falsely represented to investors, "The four-year technology lead coupled  
12 with the two [P]atents create a formidable barrier to entry for prospective  
13 competitors."

14 30. The 2013 Business Plan further discussed the Patents' role in protecting the  
15 VADelta technology and investors' investments in Catharon: "These [P]atents  
16 effectively preclude competitors from introducing software products and services  
17 that make unlicensed use of these proprietary techniques."

18 31. When **Michael Feinberg** and **Betsy Feinberg** made the foregoing representations  
19 in the April 5, 2013 offering materials, the Patents no longer belonged to Catharon.  
20 On January 9, 2013, Catharon assigned to a third party "[A]ll right, title and interest  
21 in, and to the Patents" according to a Patent Assignment and Revenue Share  
22 Agreement ("Patent Assignment") that **Betsy Feinberg** executed that date.

23 32. As an essential part of and in furtherance of the defendants scheme to defraud, the  
24 defendants' caused to be issued interstate wire transfers when various victims wired  
25 their investment funds to bank accounts controlled by the defendants.  
26  
27  
28

**Count 1**  
**Conspiracy to Commit Wire Fraud**  
**[Title 18 U.S.C. § 1349]**

33. The factual allegations in paragraphs 1 through 32 of this indictment are re-alleged and incorporated by reference as if fully set forth herein.

34. From on or about 1997 and continuing through March 7, 2014, in the District of Arizona and elsewhere, the defendants **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, conspired, confederated and agreed with each other to knowingly engage in and execute an ongoing scheme to defraud various persons, and to obtain money, funds, credits or other property owned by or under the custody or control of such persons, by means of materially false or fraudulent pretenses, representations and the intentional concealment of material facts, in violation of Title 18, U.S.C. § 1343, Wire Fraud.

**The Purpose of the Conspiracy**

35. The purpose of the conspiracy was for the defendants to unlawfully enrich themselves by obtaining investments derived from the defendants' scheme to defraud all in violation of Title 18, U.S.C. § 1349, Conspiracy to Commit Wire Fraud.

**Counts 2 and 3**  
**Wire Fraud**  
**[Title 18 U.S.C. § 1343]**

36. The factual allegations in paragraphs 1 through 32 of this indictment are re-alleged and incorporated by reference as if fully set forth herein.

37. On the dates alleged below, in the District of Arizona and elsewhere, the defendants, **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, willfully and knowingly executed, or attempted to execute, a scheme or artifice to defraud (1) to obtain any money or property by materially false or fraudulent pretenses, representations, or promises, and the intentional

concealment of material facts or willfully participated in such a scheme with knowledge of its fraudulent nature; (2) that **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, acted with the intent to defraud; and (3) in advancing, furthering, or carrying out an essential part of the scheme, **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, transmitted and caused to be transmitted any writing, signal, or sound by means of a wire communication in interstate commerce that is, banking wire transfers relating to the monetary losses set out below:

Count	Date	Amount	Receiving Account	Investor
2	October 4, 2013	\$5,000	xxxx6162	J.H.
3	March 7, 2014	\$25,000	xxxx6162	L.G.

All in violation of Title 18, United States Code, Section 1343.

**Count 4**  
**Conspiracy to Commit Securities Fraud**  
**[Title 18 U.S.C. §371]**

38. The factual allegations in paragraphs 1 through 32 of this indictment are re-alleged and incorporated by reference as if fully set forth herein.

39. From on or about 1997 and continuing through March 7, 2014 in the District of Arizona and elsewhere, the defendants **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, knowingly and willfully conspired, confederated and agreed with each other to commit offenses against investors, namely violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

**The Purpose of the Conspiracy**

40. The purpose of the conspiracy was for the defendants to unlawfully enrich themselves by obtaining investments derived from the defendants' scheme to defraud in connection with their sale of unregistered securities in violation of Title

15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5. In furtherance of the conspiracy and to effect the objects of the conspiracy the defendants committed various overt acts as outlined in the introductory paragraphs of the indictment, all in violation of Title 18, United States Code, Section 371.

**Counts 5 - 16**

**Securities Fraud**

**[Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5]**

41. The factual allegations in paragraphs 1 through 32 of this indictment are re-alleged and incorporated by reference as if fully set forth herein.
42. On the dates alleged below, in the District of Arizona and elsewhere, the defendants, **MICHAEL FEINBERG** and **BETSY FEINBERG (dba Catharon Software Corporation)**, knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, and of the mails, would and did use and employ, in connection with the purchase and sale of stock in Catharon, manipulative and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of conduct which operated and would operate as a fraud and deceit upon any persons, including members of the investing public and purchasers of Catharon's securities, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5; as set out below:

Count	Date	Amount Defendant Ledger and Bank Statements	Receiving Account	Investor
5	10-5-2012	\$50,000	xxxx6162	B.L.

6	11-2-2012	\$105,000	xxxx6162	R.H. (Equity Trust)
7	1-31-2013	\$10,000	xxxx6162	D.C.
8	3-11-2013	\$10,000	xxxx6162	M.M.
9	3-13-2013	\$10,000	xxxx6162	D.C.
10	4-1-2013	\$15,000	xxxx6162	J.V.
11	4-24-2013	\$5,000	xxxx6162	J.S. and C.S.
12	5-28-2013	\$5,000	xxxx6162	R.H. and J.H.
13	7-29-2013	\$25,000	xxxx6162	A.B.
14	7-30-2013	\$25,000	xxxx6162	P.E. and P.E.
15	10-4-2013	\$5,000	xxxx6162	J.H.
16	3-7-2014	\$25,000	xxxx6162	L.G.

### **FORFEITURE ALLEGATION**

Upon conviction of one or more of the offenses alleged in Counts 1 through 16 of this Indictment, the defendants, MICHAEL FEINBERG and BETSY FEINBERG, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to violations of Title 18, United States Code, Section 1349, Conspiracy to Commit Wire Fraud; Title 18, United States Code, Section 1343, Wire Fraud; Title 18, United States Code, Section 371, Conspiracy to Commit Securities Fraud; and Title 15, United States Code, Section 78ff, Securities Fraud; and

Upon conviction of the offenses in violation of Title 18, United States Code, Sections 1343 and 1349 as set forth in Counts 1 through 3 of this Indictment, the defendants, MICHAEL FEINBERG and BETSY FEINBERG, shall forfeit to the United

1 States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any  
2 property constituting, or derived from, proceeds obtained, directly or indirectly, as a result  
3 of such violations.

4 The property to be forfeited includes, but is not limited to, the following: A sum of  
5 money equal to the amount of proceeds obtained as a result of the offenses, in an amount  
6 not less than \$5,001,559.00 in United States currency.

7 If any of the property described above, as a result of any act or omission of the  
8 defendants: a) cannot be located upon the exercise of due diligence; b) has been transferred  
9 or sold to, or deposited with, a third party; c) has been placed beyond the jurisdiction of  
10 the court; d) has been substantially diminished in value; or e) has been commingled with  
11 other property which cannot be divided without difficulty, it is the intent of the United  
12 States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title  
13 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section  
14 2461(c), to seek forfeiture of any other property of said defendants up to the value of the  
15 above forfeitable property, including, but not limited to, all property, both real and  
16 personal, owned by the defendants.

17 All pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(2)(A),  
18 Title 28, United States Code, Section 2461(c), and Rule 32.2(a), Federal Rules of Criminal  
19 Procedure.

20 A TRUE BILL

21 **/ S /**

22 \_\_\_\_\_  
23 Presiding Juror

24 ELIZABETH A. STRANGE  
25 First Assistant United States Attorney  
26 District of Arizona

27 **/ S /**

28 Assistant U.S. Attorney

**REDACTED FOR  
PUBLIC DISCLOSURE**

**SEP 05 2018**